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Outside the Ivory Tower: How Law Students Benefit When Their Professors Revisit Practice

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ABSTRACT

Theory or practice? For nearly a century, law professors and the legal community have debated whether law schools should focus on teaching the theory or the practice of law. At first, the theorists prevailed. Law schools emulated their ivory tower counterparts, teaching theory and producing scholarly research. Law students, they argued, could learn how to practice law after graduation.

Employers and graduates balked, complaining that new lawyers floundered in practice. Clients refused to subsidize their training. Law schools, they pointed out, are more akin to medical schools than traditional colleges, and law students need to learn essential skills alongside theory. After all, they pointed out, most law students attend law school intending to practice law, not to theorize.

In response, the American Bar Association (ABA) revised its accreditation standards, insisting that law schools increase experiential learning offerings. But law students still graduated as near strangers to the profession. Accordingly, the ABA now demands more once again, asking that law schools teach the skills of a lawyer but also welcome law students into the culture and ethics of the profession. Professional identity formation, as this teaching is called, is now part of law schools' accreditation.

But how can law professors guide students' professional identity formation if they themselves are unfamiliar with today's profession? While many professors are engaged with the practicing bar, many others are not. Overtaken by the press of teaching, grading, service, and scholarship, their professional connections may wither. This

Article posits that, to guide law students properly in their professional identity, law professors must connect with practice. Connection can consist of a sabbatical or other period of time spent fully immersed in practice or even an ongoing relationship with the local practicing bar or individual lawyers. Further, administrators should encourage these efforts. But all law professors should do something to ensure that their guidance is up to date and that they can provide the information and opportunities required for professional identity formation.

INTRODUCTION

The American Bar Association, the practicing bar, and commentators urge law schools to more thoroughly prepare students for practice. The ABA—law schools’ accrediting body—is pressing law schools to do more. For example, a recent rule requires law schools to provide substantial opportunities in each year of law school for students to form their legal professional identity. Distinct from practical skills and knowledge, the professional identity is a fully internalized understanding of what it means to be a lawyer.

Law students can form this identity through opportunities such as experiential learning courses or externships, which law schools usually offer in the second or third year of law school. Yet law professors teaching all courses have a role to play, ideally infusing the classroom with insights on how students should practice law. Law professors, especially those teaching first-year courses, are often students’ first role models in the law.

But both law teaching and legal practice are time-consuming endeavors. Faced with the demands of teaching, scholarship, and service, professors may let their connections to practice wither. Thus, the goal of preparing students for the workplace is in tension with many professors’ own distance from law practice.

This Article urges that law professors, and first-year law professors in particular, draw closer to practice through initiatives designed to refresh their experience and create new relationships with practitioners and judges. These initiatives can range from fully immersive and time intensive to low-commitment experiences, including experiential sabbaticals spent in practice, such as the author’s recent sabbatical spent in judicial chambers¹; partnerships with practicing attorneys; pro

¹ To enrich her teaching of legal writing and to revisit practice, the author spent her spring 2023 sabbatical semester as an intern with three different judges. She spent a month with Judge Robert Schaffer in the 152nd Civil Judicial District Court in Harris County,

bono activities; engagement with local bar activities; and targeted opportunities for professor/practitioner connections. Each of these can foster experiences that enrich professors' understanding of today's law practice and, in turn, benefit students' professional identity formation.

Faculty connections to practice can help students during all three years of law school. But during the lecture-heavy first year of law school, a faculty more connected to practice can help show law students their future in the law and provide important connections to practice. Right from the start, then, law students will feel more a part of the culture, ethics, and responsibilities of the profession they are about to join. Through deeper connections between professors and practitioners, professional identity formation will develop in both structured and organic ways.

The matter is urgent. Commentators and employer surveys insist that law students still don't have the skills they need to enter practice. And the ABA's new guidance requires that law schools do more.² Professional identity takes time, and the standard's interpretation accordingly calls for opportunities during each year of law school.³ The time is ripe for law professors to respond to this call.

Part I sets out the ABA's professional identity formation standard and how law schools can help students develop their professional identity; Part II describes the gap between the practicing bar and the

Texas; a month with Judge George C. Hanks in the United States District Court for the Southern District of Texas; and a month with Judge Jennifer Walker Elrod of the Fifth Circuit Court of Appeals.

² The American Bar Association has long urged law schools to give students opportunities to appreciate—and then embrace—lawyers' special obligations to clients, to society, and to themselves. The ABA's new guidance calls for "substantial opportunities" for this development. ABA Standard 303(b): "A law school shall provide substantial opportunities to students for: (1) law clinics or field placement(s); (2) student participation in pro bono legal services, including law-related public service activities; and (3) the development of a professional identity." ABA STANDARDS & RULES OF PROC. FOR APPROVAL OF L. SCHS., Standard no. 303(b) (AM. BAR ASS'N 2023).

³ ABA Interpretation 303-5:

Professional identity focuses on what it means to be a lawyer and the special obligations lawyers have to their clients and society. The development of professional identity should involve an intentional exploration of the values, guiding principles, and well-being practices considered foundational to successful legal practice. Because developing a professional identity requires reflection and growth over time, students should have frequent opportunities for such development during each year of law school and in a variety of courses and co-curricular and professional development activities.

ABA STANDARDS & RULES OF PROC. FOR APPROVAL OF L. SCHS., Standard no. 303 interpretation no. 303-5 (AM. BAR ASS'N 2023).

legal academy as well as the gap's consequences; Part III describes an array of practice connections that law professors can pursue; Part IV describes how these connections can enliven the law school classroom, particularly for first-year students; and Part V sets out how law school administrators can encourage these initiatives.

I

PROFESSIONAL IDENTITY FORMATION: THE MANDATE

Commentators and the American Bar Association have long called on law school leaders to better prepare their students for practice and all that membership in a profession entails. While this may seem to be common sense, the idea is a departure from legal academia's traditions—and some legal academics still resist the idea. In the early twentieth century, law faculties and administrations generally believed that law school should teach the theory of law, not the practice.⁴ Practical knowledge, the argument went, could be part of postgraduation training. But as graduates left law school unprepared for practice and clients pushed back against subsidizing new lawyers' training, practitioners and commentators alike challenged law schools' resistance to practical training. In the 1990s and early 2000s, a series of reports and studies urged that law schools can and should do more in teaching some of the skills that matter most to employers and to student success.⁵ The definition of “professional identity formation” is at times elusive,⁶ but the concept emerged through a series of well-researched reports, as set out below.

The MacCrate report⁷ was the first to focus legal academia's attention on the need for better practice preparation. It highlighted the

⁴ Laura I. Appleman, *The Rise of the Modern American Law School: How Professionalization, German Scholarship, and Legal Reform Shaped Our System of Legal Education*, 39 NEW ENG. L. REV. 251, 300 (2004) (“In the modern university, law professors no longer mingled with the realities of the law. Turning away from practice, they turned instead to the library, where they directed most of their energies toward developing new knowledge.”).

⁵ For a further review of these studies and citations to further analysis of them, see Megan Bess, *Grit, Growth Mindset, and the Path to Successful Lawyering*, 89 UMKC L. REV. 493, 495–96 (2021).

⁶ “It is a curricular requirement actively in search of a definition—with many competing voices ready to stipulate what the definition ought to be.” Harmony Decosimo, *A Taxonomy of Professional Identity Formation*, 67 ST. LOUIS U.L.J. 1, 10 (2022). A complete description of the current understanding of professional identity formation is set out in Part A, below.

⁷ Section of E Eugene Clark, *Legal Educ. & Admissions to the Bar, Am. Bar Ass'n, Legal Education and Professional Development—An Educational Continuum, Report of the Task*

need for a more complete lawyering skills instruction, to “narrow the gap” between the expectation that students are ready for practice and the reality that they are not.⁸ Rather than focusing on theory, the report urged, law schools should focus on practice too.⁹ The report called on law schools to teach practical skills together with professional values and the responsibility of representing clients.¹⁰ Interestingly, for purposes of this Article, the report even then attributed part of the gap between legal education and practice to the absence of law professors from practicing bar activities; the report urged that the academy and the practicing bar increase their collaborations.¹¹

The Carnegie Report, a 2007 study of legal education, likewise identified professional identity as a particular area that law schools should teach.¹² The report explained that professional identity formation is one of three different “apprenticeships” that students should engage in, yet professional identity is the one least successfully taught.¹³ The formation of a professional identity, the authors concluded, was best taught when the student could practice lawyering skills while learning from a role model and receiving critique so that the learner could make the information his or her own.¹⁴ The Carnegie Report rejected the idea that adjunct professors, with their practical

Force on Law Schools and the Profession: Narrowing the Gap, ABA (1993) [hereinafter MACCRATE REPORT]. The report came from the ABA’s Section of Legal Education and Admissions to the Bar’s Task Force on Law Schools and the Profession. The report analyzed practice-focused programs available to students at U.S. law schools; the task force held four public hearings on students’ readiness for practice and otherwise researched the issue with depth and care. *Id.* at vi–xiv.

⁸ *Id.* at 331–32 (“Law schools should continue to emphasize the teaching of the skills of ‘legal analysis and reasoning’ and ‘legal research,’ as described in the Statement of Skills and Values . . .”).

⁹ *Id.*

¹⁰ *Id.*

¹¹ *Id.* at 5–6 (noting the absence of law professors from bar activities and noting that “both the organized bar and the law schools suffer from this apparent failure of the two cultures to work in the areas of common interests”). The report noted—and praised—those law professors who do participate in practice-related panels and committees. *Id.*

¹² WILLIAM M. SULLIVAN ET AL., *EDUCATING LAWYERS: PREPARATION FOR THE PROFESSION OF LAW* 26 (2007) [hereinafter CARNEGIE REPORT].

¹³ Bess, *supra* note 5, at 495–96 (discussing “[t]he [Carnegie Report’s] authors[’] conclu[sion] [that] legal education [is] comprised of three apprenticeships of decreasing success: first, thinking like a lawyer; second, acting as a lawyer; and third, developing the professional identity of a lawyer”).

¹⁴ CARNEGIE REPORT, *supra* note 12. (“Research suggests that learning happens best when an expert is able to model performance in such a way that the learner can imitate the performance while the expert provides feedback to guide the learner in making the activity his or her own.”).

experience, could teach all matters directly related to the actual practice of law—instead, the report urges, the practical and ethical concerns of practice should be integrated into the entire curriculum.¹⁵

At the same time the Carnegie Report was published, the Best Practices report appeared.¹⁶ Best Practices likewise called for greater focus on graduates' readiness for practice. Further, the report argued that the treatment of professional skills is an important part of legal education.¹⁷ The report urged that values and professionalism be integrated into the curriculum instead of treated as separate subjects.¹⁸ It called for sparing use of the Socratic method during the first year, instead recommending simulations inside and outside the classroom and early contact with practicing lawyers and judges.¹⁹

The ABA's new, more robust professional identity formation standard does not, then, come out of the blue but crystalizes decades of research and scholarship. Each one of these reports, well-researched and widely read, calls for better preparation for practice, including development of law students' professional identity. Law students, the reports explain, must be brought into the professional fold sooner, more thoughtfully, and more effectively. They also urge law professors to be at the forefront of this movement by connecting to the profession so they can effectively welcome their students into the fold.

Now the ABA is urgently pressing law schools for more robust professional identity formation instruction.²⁰ The ABA's new

¹⁵ Martin H. Pritikin, *The Teacher Becomes Student: What Law Professors Can Learn from the Legal Profession*, 81 DEF. COUNS. J. 333, 334 (2014) (noting that the Carnegie Report “urges schools to adopt an approach that *integrates* ‘each aspect of the legal apprenticeship—the cognitive, the practical and the ethical-social’” (emphasis in original) (quoting CARNEGIE REPORT, *supra* note 12, at 191)).

¹⁶ ROY STUCKEY ET AL., BEST PRACTICES FOR LEGAL EDUCATION: A VISION AND A ROAD MAP (2007) [hereinafter BEST PRACTICES]. *Best Practices* recommended that law schools prepare students better for practice by teaching professionalism as well as by facilitating early exposure to the profession. “While law schools help students acquire some of the essential skills and knowledge required for law practice, most law schools are not committed to preparing students for practice. It is generally conceded that most law school graduates are not as prepared for law practice as they could be and should be. Law schools can do much better.” *Id.* at 5.

¹⁷ *Id.*

¹⁸ *Id.* at vii (noting that law schools should “broaden the range of lessons they teach, reducing doctrinal instruction that uses the Socratic dialogue and the case method; integrate the teaching of knowledge, skills and values, and not treat them as separate subjects addressed in separate courses; and give much greater attention to instruction in professionalism”).

¹⁹ *Id.* at 6.

²⁰ When the ABA solicited comments on the proposed new Standard 303, it received thirty-five comments, of which thirty-one were generally supportive of the revision.

professional identity formation requirement calls for frequent and meaningful guidance in professional identity formation. Law school administrators are studying and addressing the different ways of responding to this mandate. But knowing how to respond first requires understanding what the standard seeks to achieve and how students acquire a professional identity.

A. The Standard's Goals: What Is Professional Identity Formation?

What does this new standard call for? The new standard involves students' learning about the profession's fundamental obligations (and how those obligations might be in tension with one another), the ability to value and direct one's professional progress, wellness in the profession, and other considerations, as described more fully below. One important difference between professional identity and the knowledge and skills that a student acquires is that a professional identity is developed slowly and over time so that the identity is *part of the person* rather than a collection of pieces of information.

1. Caring for the Client

Law students should understand that they have a responsibility to care for the client and that this responsibility is foundational to the profession.²¹ As they develop into lawyers, law students should understand the importance of this responsibility. When this relationship to the client is properly grasped, it becomes part of the lawyer's view of the world rather than an external duty.²² The lawyer's responsibility to the client should be nurtured and treated similarly to a physician's care for a patient.²³ According to the Carnegie Institute, this aspect of

Memorandum from the Standards Comm. on Proposed Changes to Standards 205 and 206, 303 and 508, and 507 to the Council, at 7 (May 7, 2021), <https://taxprof.typepad.com/files/aba-18.pdf> [<https://perma.cc/3J2V-LXKA>].

²¹ Neil W. Hamilton & Louis D. Billionis, *Revised ABA Standards 303(b) and (c) and the Formation of a Lawyer's Professional Identity, Part 1: Understanding the New Requirements*, NALP BULLETIN+ (May 2022), <https://www.nalp.org/revised-aba-standards-part-1> [<https://perma.cc/XH55-6J3A>] ("Deep responsibility and care essentially entail a fiduciary disposition or fiduciary mindset, using 'fiduciary' in the general meaning of founded on trustworthiness. Each law student and new lawyer must learn to internalize a responsibility to put the client's interests before the lawyer's self-interest.").

²² *Id.*

²³ *Id.*

professional training is the least taught or understood in both the medical and legal professions.²⁴

2. *Becoming a Self-Directed Learner, Motivated Toward Excellence in Professional Skills*²⁵

To succeed in a profession, the foundational years of education are insufficient—so law schools must teach students to expect to learn more after law school and to be capable and confident enough to do so. Just as a new physician should be committed to ongoing training and learning, so should a new lawyer be self-motivated to learn and to grow as an attorney, in turn, to provide excellent service to a client.²⁶

3. *Wellness*

Wellness may not have an obvious connection to professional identity formation, but recent studies show that the two are intertwined:

Well-being, professional identity, and performance are interrelated. Science supports what we all see: the culture of speed in our society and the legal profession has negative effects on physical and mental well-being. Personal problems, mental and physical illness, and substance abuse all interfere with professional identity formation and have a negative impact on it. Recent research has revealed the links between well-being, professional identity, and performance.²⁷

Law school and the practice of law tend to undermine students' and lawyers' self-esteem.²⁸ And both law school and the practice of law are associated with elevated instances of depression and other mental

²⁴ Neil Hamilton & Verna Monson, *The Positive Empirical Relationship of Professionalism to Effectiveness in the Practice of Law*, 24 GEO. J. LEGAL ETHICS 137, 185 (2011) (“In every field that we studied, we concluded that the most overlooked aspect of professional preparation was the formation of a professional identity with a moral core of service and responsibility around which the habits of mind and practice should be organized . . . An integrated curriculum must provide the basis for the formation of individual professional integrity.”) (citing Lee Shulman, *Foreword* to MOLLY COOKE ET AL., EDUCATING PHYSICIANS: A CALL FOR REFORM OF MEDICAL SCHOOL AND RESIDENCY ix (2010)).

²⁵ Hamilton & Bilionis, *supra* note 21, at 5 (“A new entrant to a profession must grow from being a passive student to being a pro-active professional with respect to professional development.”).

²⁶ *Id.*

²⁷ Melissa Berry, *A Primer on Professional Identity Formation*, NALP BULLETIN, March 2020.

²⁸ Susan L. Brooks, *Fostering Wholehearted Lawyers: Practical Guidance for Supporting Law Students' Professional Identity Formation*, 14 U. ST. THOMAS L.J. 412, 417 (2018) (noting that “legal education and the practice of law too often undermine self-esteem and well-being”).

health disorders.²⁹ Lawyers are at an elevated risk of substance use disorders and mental health disorders, so the need to train law students in wellness is particularly acute.³⁰

4. Client-Focused Relational Skills, as Well as the Ability to Problem-Solve and Exercise Good Judgment

The case law, legal writing, and analysis that ground the first year of law school are, of course, necessary to legal practice but are insufficient to meet the needs of today's clients and employers.³¹ Additional skills that attorneys need include strong communication skills, responsiveness, conscientiousness, grit, and organization.³²

Professional identity formation is important not just for its own sake but because it is closely aligned with an effective and sustainable legal career.³³ And professional identity is more than professionalism—it is the exercise of judgment using all one's intellect and experience.³⁴

²⁹ Hamilton & Bilionis, *supra* note 21.

³⁰ *Id.* (“[Self-Determination Theory] defines three basic psychological needs contributing to well-being: (1) autonomy (to feel in control of one's own goals and behaviors); (2) competence (to feel one has the needed skills, including physical and mental health skills, to be successful); and (3) relatedness (to experience a sense of belonging or attachment to other people).”).

³¹ *Id.* (“Competencies Empirical Studies Indicate That Clients and Legal Employers Need 1. superior client focus and responsiveness to the client, 2. exceptional understanding of the client's context and business, 3. effective communication skills, including listening and knowing your audience, 4. client-centered creative problem-solving abilities and good professional judgment, 5. ownership over continuous professional development (taking initiative) of both the traditional technical competencies in Table 2, the client relationship competencies above, and the capacities and skills below, 6. teamwork and collaboration, 7. strong work ethic, 8. conscientiousness and attention to detail, 9. grit and resilience, 10. organization and management of legal work (project management), and 11. an entrepreneurial mindset to serve clients more effectively and efficiently in changing markets.”).

³² *Id.*

³³ Hamilton & Monson, *supra* note 24, at 184 (“[E]mpirical evidence shows a significant positive relationship between an internalized high professionalism and clients' and senior lawyers' perception of effectiveness in the practice of law. The article also analyzes a number of empirical studies in other peer-review professions demonstrating that growth in any of the capacities of the FCM (personal conscience) is positively related to professional effectiveness. It is reasonable that growth in the same capacities for lawyers will contribute to effectiveness in the practice of law.”).

³⁴ Benjamin V. Madison, III & Larry O. Natt Gantt, II, *The Emperor Has No Clothes, but Does Anyone Really Care? How Law Schools Are Failing to Develop Students' Professional Identity and Practical Judgment*, 27 REGENT U. L. REV. 339, 344 (2015) (“The objective embraced here is the kind of counseling and decision-making that engages all of a person's faculties, including one's intellect, emotional intelligence, and experience.”).

B. Accomplishing—and Undermining—the Goals

How can law schools best accomplish these goals? The first step is to understand how the transformation from law student to professional takes place psychologically and practically. During the professional identity formation process, the student becomes an “insider” in the profession, someone who has grown from a novice outsider who observes to a member of a “community of expert practice.”³⁵ This is a practical and psychological process and a time of self-definition.³⁶ The process can be quite stressful, and the student is likely to experience uncertainty and self-reflection.³⁷

Some critics doubt that law schools can do much to accelerate this process; some contend that experiences placing law students in the attorney’s role can only marginally advance it.³⁸ Yet drawing on this scholarship and parallel scholarship from the medical field,³⁹ law school administrators and professors can understand and implement experiences that students describe as helping them the most in forming their professional identity. While law schools are responding to this research with additional experiential opportunities, the first year of law school, as set out below, remains an area with little experiential exposure to law practice and a pedagogical approach that arguably undermines—rather than enhances—professional identity formation.

1. Authentic Experiences Hit Hardest

Law schools need to provide practice-like conditions to best help students develop a professional identity—the more authentic the experience, the better. Students report that they start to see themselves more as junior lawyers, rather than law students, when acting as

³⁵ Neil Hamilton, *The Major Transitions in Professional Formation and Development from Being a Student to Being a Lawyer Present Opportunities to Benefit the Students and the Law School*, 73 BAYLOR L. REV. 139–40, 154–55 (2021).

³⁶ *Id.* at 141.

³⁷ *Id.*

³⁸ Robert J. Condlin, “Practice Ready Graduates”: *A Millennialist Fantasy*, 31 TOURO L. REV. 75, 90 (2014) (“Becoming socialized in a profession is a long-term process, however, a consequence of repeated immersion in the profession’s tasks, relationships, and body of knowledge. The process has a natural life cycle that cannot be accelerated or reproduced (except minimally) by facsimile experiences in schools.”).

³⁹ For example, the book *Educating Physicians* suggests two foundational learning outcomes similar to those that the legal profession aspires to: “a deep sense of commitment and responsibility to patients, colleagues, institutions, society, and self and an unflinching aspiration to perform better and achieve more.” MOLLY COOKE ET AL., *EDUCATING PHYSICIANS: A CALL FOR REFORM OF MEDICAL SCHOOL AND RESIDENCY* 41 (2010).

attorneys, either in real life or in simulations.⁴⁰ According to one study, summer employment had the greatest impact on students' progress toward perceiving themselves as junior lawyers rather than students.⁴¹ The same is true in medical education, with the strongest recommendation on the most effective curriculum to promote professional development being authentic experiences with supervision: "Opportunities should include authentic part and whole tasks with appropriate supervision to develop technical and non-technical skills without compromising patient safety."⁴²

Law schools have achieved deep student reflection on professional identity through exercises such as pairing with a practicing lawyer, engaging in timekeeping (as lawyers do), and observing client interactions with attorneys—even fraught interactions.⁴³

Classes that can provide experiences such as these are generally small, however, and normally do not take place during the first year of law school.⁴⁴ Based on these surveys and studies, though, law school administrations and professors seeking to enhance professional identity formation should prioritize authentic experiences and strive to add more of them throughout students' three years of law school. In addition, given the significant impact of summer employment, paid or unpaid, on students, these opportunities should be made available as much as possible to students, including during the summer after their first year.

⁴⁰ Hamilton, *supra* note 35, at 154 (noting that in surveys, 2L students rated authentic professional experiences as having the highest impact on their own development toward professional development). Summer employment was the most impactful (fifty-nine percent rating it the most impactful), closely followed by unpaid summer employment (fifty-two percent). *Id.*

⁴¹ *Id.*

⁴² Sarah Yardley et al., *The Do's, Don't and Don't Knows of Supporting Transition to More Independent Practice*, 7 PERSPS. ON MED. EDUC. 8, 12 (2018).

⁴³ Charlotte S. Alexander, *Learning to Be Lawyers: Professional Identity and the Law School Curriculum*, 70 MD. L. REV. 465, 469 (2011) ("Students' observations ranged from sitting in on initial intake interviews and follow-up client meetings, accompanying attorneys to court hearings and mediations, and observing depositions. Students observed their attorneys delivering bad news to clients, making strategic decisions about how to present their clients' case to the court, and counseling their clients about whether to accept a settlement offer.").

⁴⁴ *Id.* at 468.

2. Simulations Work Too

Experiences need not take place in the workplace to be authentic and powerful. Simulations can also help students reflect upon and take on aspects of a professional identity.

Most 1Ls take a legal writing class with assignments mimicking those a summer associate or new lawyer might need to produce, such as legal memos, motions, and briefs. Simulations of these professional legal writing tasks can be impactful, with twenty percent of students reporting that receiving critique on their first legal memo had a “great impact” on their professional development.⁴⁵ Students reported that their first oral argument, done as part of the first-year legal writing class, was highly impactful.⁴⁶

To help students develop a professional identity, more complex experiences are better than simple ones—if possible, students should be pushed to reflect deeply on their obligations to clients and others in the profession.⁴⁷ One professor prompted students to reflect on their professional identity by engaging in a semester-long course on discovery (a stage in litigation), containing decision points and ethical considerations.⁴⁸ The simulation not only taught students the technical aspects of discovery practice but also encouraged them to consider their style and behavior as a future attorney.⁴⁹ In doing so, the students started to form their own professional identity.

⁴⁵ Hamilton, *supra* note 35, at 155. The third most influential experience, receiving back the first graded memorandum from lawyering skills (with nineteen percent responding great influence), and the fifth most influential experience, in mentor externship (nineteen percent responding great influence), are also professionally authentic experiences (real-life or mimicking the real-life work of a lawyer).

⁴⁶ *Id.* at 162 (noting that other experiences cited as highly influential included “the first oral argument, the most impactful externship experience, the fall semester grades, and the search for summer employment”).

⁴⁷ Martin J. Katz, *Teaching Professional Identity in Law School*, 42 COLO. LAW. 45, 46 (2013) (“The key is creating situations where students will be confronted with, and pushed to reflect on, questions of professional identity. The best questions are those that go beyond a particular ethical rule or a particular behavior associated with professionalism. The best questions for teaching address the complex interplay of our various roles and duties as lawyers.”).

⁴⁸ David I.C. Thomson, “*Teaching*” *Formation of Professional Identity*, 27 REGENT U. L. REV. 303, 333 (2015) (“Further, the simulation puts them in situations where they have to begin to form their own professional identity and consider difficult questions such as ‘How will I behave in this situation as an attorney?’ and ‘What kind of attorney do I want to be: an obstreperous one or a cooperative one?’ or more simply: ‘What is my style of lawyering going to be?’”).

⁴⁹ *Id.*

3. *The Self-Determination/Wellness Connection*

What exactly does the development of wellness strategies look like in law school?

As an initial matter, law schools currently undermine student well-being rather than promote it. As a group, law students begin their studies with no more depression and anxiety than the general population—but law school increases the incidence of these conditions dramatically.⁵⁰ The lack of wellness in law school has multiple sources, including a competitive environment and a culture in which studying—to the exclusion of self-care and health activities—is often worn as a badge of honor.⁵¹

Law professors can promote wellness by modeling a healthy relationship to work and mentioning outside activities.⁵² In addition, wellness in law school is connected to greater self-determination and autonomy; self-determination and autonomy are also correlated with higher bar passage.⁵³

To understand how wellness works—or, often, does not work—in the legal profession, law students should have the opportunity to understand and prepare for the rigors of practice. They should be able

⁵⁰ Law students are not inherently more anxious people than the general public. Law school itself causes the anxiety. One study showed that law students who entered law school with typical levels of anxiety and depression soon exhibited levels eight to fifteen times greater than the general population. See Abigail Loftus DeBlasis & Elizabeth Adamo Usman, *Unrealized Potential: How Shifting the Focus to Student Learning Outcomes Could Reduce Law Student Distress*, 95 U. DET. MERCY L. REV. 179, 186 (2018).

⁵¹ *Id.* at 191 (“In law school culture, the amount of time spent studying to the exclusion of balance in a law student’s life is sometimes treated by students and professors alike as a badge of honor, a sign that one is a dedicated, smart, or successful student.”).

⁵² Jennifer Jolly-Ryan, *Promoting Mental Health in Law School: What Law Schools Can Do for Law Students to Help Them Become Happy, Mentally Healthy Lawyers*, 48 U. LOUISVILLE L. REV. 95, 135 (2009) (arguing that law professors should remind students how important it is to find balance in their lives and “occasionally ask law students about their hobbies and interests outside of law school . . . [and] encourage [them] to work hard throughout law school to maintain their personal relationships and interests”).

⁵³ Neil W. Hamilton & Louis D. Bilionis, *Revised ABA Standards 303(b) and (c) and the Formation of a Lawyer’s Professional Identity, Part 2: Action Steps to Benefit Students, Law Schools, and the Legal Profession*, NALP BULLETIN+ (June 2022), <https://www.nalp.org/page.cfm?name=revised-aba-standards-part-2&print=Y> [https://perma.cc/636N-QYH7] (“Students at the school with stronger autonomy support had higher well-being, better academic performance on grades, more self-determined motivation to pursue their legal careers, and better performance on the bar examination”). A subsequent study followed up with surveys submitted from 7,865 practicing lawyers in four states. See Kennon M. Sheldon & Lawrence S. Krieger, *Understanding the Negative Effects of Legal Education on Law Students: A Longitudinal Test of Self-Determination Theory*, 33 PERSONALITY & SOCIAL PSYCH. BULL. 883, 893–94 (2007).

to sit down with practicing lawyers and try to understand the stresses of practice and why lawyers may resort to substance use disorders to alleviate their stress.

A law student who understands all that practice might entail is better prepared to select a specialty or reject another on that basis. In addition, if law students understand that taking time for wellness will be just as challenging—if not more so—in practice as in law school, then they may be motivated to start good wellness habits in law school.

To have a conversation about wellness, though, students must have contact with practicing lawyers in a setting conducive to frank discussion. Ideally, this would take place during the first year, when students are starting to be interested in various practice areas and are selecting first-year summer opportunities. In addition, first-year law students are learning to balance a demanding schedule with exercise, taking time with family and friends, and other wellness-promoting activities.

4. Does the First Year of Law School Undermine Professional Identity Formation?

According to experts, the lawyer with a complete professional identity is thoughtful, autonomous, self-directing, and in charge of their learning. So why does the first year proceed in a lockstep and, at times, in a stress-inducing manner?

In some respects, the first year seems to diminish enthusiasm and zeal for the profession rather than increase it.⁵⁴ Studies show that law students begin their studies enthusiastically, but this enthusiasm quickly fades.⁵⁵ This may in part be because new students arrive with an unrealistic perception of law practice, often based on lawyers on television shows or popular culture.⁵⁶

⁵⁴ Jennifer S. Bard, *What We in Law Can Learn from Our Colleagues in Medicine About Teaching Students How to Practice Their Chosen Profession*, 36 J.L. MED. & ETHICS 841, 843 (2008) (noting that students often come to law school with a distorted picture gleaned from television programs or movies in which all lawyers spend each day in court, and no lawyer thinks, researches, or writes). “Despite this unpromising beginning, research shows that many law students come to us with great enthusiasm and, with what should be shocking regularity, are reduced within a year to depression and apathy.” *Id.*

⁵⁵ Lawrence S. Krieger, *Institutional Denial About the Dark Side of Law School, and Fresh Empirical Guidance for Constructively Breaking the Silence*, 52 J. LEGAL EDUC. 112, 114 (2002) (“The data reveal additional changes that are very troubling, including an overall dulling of student motivation and goal-directed striving, and shifts away from initially positive motivation and altruistic values toward external, imposed values and motives.”).

⁵⁶ Bard, *supra* note 54.

Another reason worth considering, however, is whether some fault lies with the first year of law school's traditional structure, from start to finish.

At the outset, new law students are generally greeted at orientation with explanations of law school's logistics and essential vocabulary and skills; they are asked immediately to start reading and briefing cases. This experience of diving into reading cases, without the jargon or context to do so, is so jarring and disorienting that it is popularized in novels and movies. In the book *One L*, for example, Scott Turow describes the process of reading and briefing cases in his first year at Harvard Law School as “stirring concrete with my eyelashes.”⁵⁷

On the other hand, the medical profession welcomes its new students with the white coat ceremony, which draws students' attention to their place in the profession and the accompanying responsibilities and obligations.⁵⁸ Medical students often view their white coat ceremony as a critical moment in their immersion into a new profession.⁵⁹

The Socratic method—the process of teaching through asking questions of a student—is another feature of the first year that may undermine the development of a professional identity. The Socratic method remains the hallmark of many first-year lecture classes, consisting of a professor teaching a large class by asking questions of a single student, often without the student knowing ahead of time that they will be called upon. This practice, known as “cold calling,” is beloved by many law professors who believe it helps create new lawyers who can “think on their feet.” Yet, in some ways, the method undermines the goals of self-direction and wellness that are the goals for professional identity today. Author and attorney Scott Turow explains the feeling of exposure and invasion of personal space that the Socratic method can provoke:

⁵⁷ SCOTT TUROW, *ONE L: THE TURBULENT TRUE STORY OF A FIRST YEAR AT HARVARD LAW SCHOOL* 16 (1977).

⁵⁸ “White coat ceremonies emphasize attention to values—the values of family and friends in the audience, the values of the medical school and the medical profession, and the entering students' commitment to the values, obligations and responsibilities of the medical profession.” Melissa H. Weresh, *I'll Start Walking Your Way, You Start Walking Mine: Sociological Perspectives on Professional Identity Development and Influence of Generational Differences*, 61 S.C. L. REV. 337, 383 (2009) (quoting Bari Burke, *If Medical Schools Can Do It, Why Can't We?*, MONT. LAW., Aug. 2007, at 28).

⁵⁹ See, e.g., *Medical Students Share the Significance of Receiving Their White Coats*, UNIV. OF MO. SCH. OF MED. (Aug. 29, 2022), <https://medicine.missouri.edu/news/medical-students-share-significance-receiving-their-white-coats> [<https://perma.cc/TR7J-524M>] (“When I put on my white coat for the first time, it became clear to me the coat draped over my shoulders represented the conclusion of one journey and the emergence of another.”).

For me, the primary feeling at the start was one of incredible exposure. Whatever its faults or virtues, the Socratic method depends on a tacit license to violate a subtle rule of public behavior. When grounds are too large for any semblance of intimacy, we usually think of them as being divided by role. The speaker speaks and, in the name of order, the audience listens—passive, anonymous, remote. In using the Socratic method, professors are informing students what would normally be a safe personal space is likely at any moment to be invaded.⁶⁰

The Socratic method is a persistent source of law student stress.⁶¹ Some law students find this approach to teaching particularly stressful, with some finishing up in tears after being called on.⁶² Some see this method as preparation for law practice, but being cold-called is quite different from practicing law.⁶³ While a fully formed professional identity requires an attorney to be self-governing and caring for their wellness, the Socratic method injects feelings of uncertainty, stress, and powerlessness into a law student's days.

Finally, because a first-year student's days are typically spent inside the confines of a classroom, the student learns alongside the same group of people each day without experiencing anything of the legal profession that might exist near the law school.

One exception to the general rule that first-year classes are divorced from professional identity formation is that of the required legal writing course. First-year legal writing assignments tend to require students to produce documents that lawyers produce daily: office memoranda, briefs, motions, and client letters. Some legal writing professors have taken the practice-like experience a step further, using class structures that involve fictitious law firms and giving assignments as if they come from a law firm partner or supervisor. Of course, professors in other

⁶⁰ TUROW, *supra* note 57, at 26.

⁶¹ David Jaffe et al., “*It Is Okay to Not Be Okay*”: *The 2021 Survey of Law Student Well-Being*, 60 U. LOUISVILLE L. REV. 439, 482 (2022); Lawrence Silver, Comment, *Anxiety and the First Semester of Law School*, 1968 WIS. L. REV. 1201 (explaining, in a qualitative study of nine 1L students at one law school in 1968, students reported high levels of concern about failure and anxiety, and the Socratic method was a specific source of anxiety); *see also* Alan Reifman et al., *Depression and Affect Among Law Students During Law School: A Longitudinal Study*, 2 J. EMOTIONAL ABUSE 93 (2000).

⁶² David A. Grenardo, *The Phantom Menace to Professional Identity Formation and Law Success: Imposter Syndrome*, 47 U. DAYTON L. REV. 369, 380 (2022).

⁶³ *Id.* at 380–81. The differences between the Socratic method and the practice of law include the fact that up to one hundred other students may be watching the Socratic dialogue (which is unlikely in practice), lawyers rarely walk into a situation completely unaware that they will, for example, be arguing a motion that day, and law students responding to Socratic questions are still learning how to even talk about the law. *Id.*

first-year courses might create similar exercises or simulations. Still, these generally are not a common or intrinsic part of the course, as they are with a typical legal writing course. Legal writing professors, however, are accustomed to and experienced in experiential styles of teaching.⁶⁴ Notably, legal writing professors tend to have more practice experience than their podium counterparts.⁶⁵

So, the formation of a professional identity is fostered best when students are acting as lawyers and learning to build autonomy and self-directedness—and yet, during the first year, most of the students' class time is spent inside classrooms (rather than engaging with the profession) that use the Socratic method. Of course, the first year might include guest speakers, panel presentations, and the like, but these approaches are ad hoc and are not the default or typical approach.

If the goal of professional identity formation is to have law students act in the attorney's role, be self-directed, and learn from experienced professional mentors, why is the first year structured this way? The answer may be that this is the environment in which many law professors feel most comfortable. The questions, then, are why, and whether this can change.

II

THE PRACTICE GAP

Even as the ABA calls for students to have greater experience with practice, law professor hiring skews toward less practice experience, especially at elite law schools. This practice gap is not by chance but is the result of a long-standing division in views of the purpose of legal education, with the more scholarly view of legal education prevailing for decades.⁶⁶

⁶⁴ Kirsten A. Dauphinais, *Sea Change: The Seismic Shift in the Legal Profession and How Legal Writing Professors Will Keep Legal Education Afloat in Its Wake*, 10 SEATTLE J. FOR SOC. JUST. 49, 103 (2011) (noting that legal writing professors are leaders on law school faculties in this and other experiential and innovative forms of teaching).

⁶⁵ Susan P. Liemer & Hollee S. Temple, *Did Your Legal Writing Professor Go to Harvard?: The Credentials of Legal Writing Faculty at Hiring Time*, 46 U. LOUISVILLE L. REV. 383, 411 (2008) (citing Mitchell Nathanson, *Taking the Road Less Traveled: Why Practical Scholarship Makes Sense for the Legal Writing Professor*, 11 J. LEGAL WRITING INST. 329, 332 (2005)). In fact, Nathanson's study found legal writing professors to have over double the practice experience as casebook professors, 4.5 years and 2.12 years respectively. Nathanson, *supra*, at 337; Dauphinais, *supra* note 64, at 133.

⁶⁶ One law professor explained the tension as follows: "The pure academic, if asked what the chief aim of legal education should be, will typically reply that it is to add to man's understanding of the meaning of the law and its role in society The pure Hessian-trainer has one answer only: the purpose of legal education is to prepare law students for practice

During the twentieth century, the scholarly view of legal education prevailed, with law professors focused on legal theory and legal scholarship as the measure of a law professor's success.⁶⁷ Nevertheless, critics charged that law schools left their graduates ill prepared for the profession they sought to enter, and legal scholarship was increasingly detached from any practical purpose in the legal profession.⁶⁸ The *US News* rankings played a role in the ascendancy of legal scholarship too, with twenty-five percent of the ranking based on reputation from academics.⁶⁹

During the legal services and legal education crises of the second decade of the 2000s, however, the call for law schools to prepare students for practice—rather than focusing on theory—grew louder. Bloggers, critics, and the ABA called for better preparation for practice.⁷⁰

To be sure, experiential education and faculty teaching such courses have increased in recent years.⁷¹ But overall, faculty hired to tenure-track positions—that is, faculty who will teach almost all the traditional first-year courses—are trending toward having less practice experience, not more.⁷²

at the Bar.” BRIAN Z. TAMANAHA, *FAILING LAW SCHOOLS* 54–55 (2012) (quoting Thomas F. Bergin, *The Law Teacher: A Man Divided Against Himself*, 54 VA. L. REV. 637, 638–39 (2008)).

⁶⁷ TAMANAHA, *supra* note 66, at 55 (noting that “[b]y the closing decades of the twentieth century the academic side was decisively dominant”).

⁶⁸ *Id.* (noting that “[t]hroughout this period, detractors have scorched law schools for doing a poor job of training lawyers” and that “the scholarly output of legal academics has become utterly detached from the law”).

⁶⁹ *Id.* at 60 (noting that “[s]cholarship fever swept through law schools”).

⁷⁰ Condlin, *supra* note 38, at 83 (noting that legal bloggers blamed law schools for economic turmoil in the legal services economy and argued that law schools were not preparing students for practice); TASK FORCE ON THE FUTURE OF LEGAL EDUC., AM. BAR ASS'N, *DRAFT REPORT AND RECOMMENDATIONS* 2–3 (Sept. 20, 2013) (“The balance between doctrinal instruction and focused preparation for the delivery of legal services needs to shift still further toward developing the competencies required by people who will deliver services to clients.”).

⁷¹ Jerome M. Organ, *Is There Sufficient Human Resource Capacity to Support Robust Professional Identity Formation Learning Outcomes?*, 14 U. ST. THOMAS L.J. 458, 465 (2018) (noting that since the publication of the MacCrate Report, there has been a significant growth in experiential education, with more faculty members supervising externships, offering skills instruction, or teaching clinics).

⁷² Brent E. Newton, *Preaching What They Don't Practice: Why Law Faculties' Preoccupation with Impractical Scholarship and Devaluation of Practical Competencies Obstruct Reform in the Legal Academy*, 62 S.C. L. REV. 105, 128 (2010).

For example, particularly at top-ranked law schools—but across the board—new law professors increasingly have both a Ph.D. and a J.D.⁷³ Those with both degrees tend to have less practice experience than those with only a J.D.⁷⁴ This lack of practice experience can lead to students learning less about the actual practice of law and then experiencing dissonance when they experience it.⁷⁵

Unlike law students, medical students learn from professors who are likely engaged in the practice of their profession every day.⁷⁶ Teaching medicine generally does not make up the full job responsibility of a medical school professor.⁷⁷ And, medical school professors are expected to be engaged in practice—to do otherwise is now considered problematic.⁷⁸ A first-year law student's professors can be role models in some sense, but they are incomplete professional role models as so few law students will become law professors.⁷⁹ Thus in the crucial first weeks and months of law school, professional role models are lacking.

⁷³ Lynn M. LoPucki, *Dawn of the Discipline-Based Law Faculty*, 65 J. LEGAL EDUC. 506, 506 (2016) (noting that just five percent of law faculty had a Ph.D. as of 1988) (citing Robert J. Borthwick & Jordan R. Schau, *Gatekeepers of the Profession: An Empirical Profile of the Nation's Law Professors*, 25 U. MICH. J.L. REFORM 191, 213 (1991)). By 2010, the percentage of law faculty at twenty-six top law schools with a J.D. and a Ph.D. had increased to twenty-one percent.

⁷⁴ *Id.* (discussing the lower level of practice experience associated with J.D./Ph.D. hires rather than J.D.-only hires); Organ, *supra* note 71, at 479; see LoPucki, *supra* note 73, at 539–40. LoPucki notes that five percent of law faculty had Ph.D.s as of 1988. LoPucki, *supra* note 73, at 506 (citing Borthwick & Schau, *supra* note 73, at 213). Her research showed, however, that twenty-one percent of faculty at top twenty-six law schools in 2010 had Ph.D.s. *Id.*

⁷⁵ Alex M. Johnson, Jr., *Think Like a Lawyer, Work Like a Machine: The Dissonance Between Law School and Law Practice*, 64 S. CAL. L. REV. 1231, 1252 (1991) (positing that the dissonance many new lawyers experience is due to a “lack of information about what the practice of law truly entails”).

⁷⁶ “Medical school professors have completed medical school, a three- to five-year residency, depending on specialty, and two or more multi-year fellowships, and are very likely in the active practice of medicine every day of their working lives.” Bard, *supra* note 54, at 843–44.

⁷⁷ While there are some full-time medical educators, who usually hold Ph.D.s in education or psychology, it is still the case that teaching is only part of the job of a physician in academic medicine, along with seeing patients, serving on committees, and doing research. *Id.* at 844.

⁷⁸ Suzanne Rabé & Stephen A. Rosenbaum, *A “Sending Down” Sabbatical: The Benefits of Lawyering in the Legal Services Trenches*, 60 J. LEGAL EDUC. 296, 301 (2010) (“It would be unthinkable for a medical professor of surgery to be removed for years at a time from the operating room.”).

⁷⁹ Bard, *supra* note 54, at 846 (“Because the faculty of medical schools consists primarily of practicing physicians, medical students have role models from the very first day.”).

So, in a sense, law schools are left with a quandary: they face the ABA's mandate of providing meaningful experiences for students to form a professional identity, yet they are increasingly asked to do that with faculty who have not themselves experienced the profession directly, or whose practice experience is limited or distant, or both. Some question whether law schools even have the right people in place to teach professional identity formation.⁸⁰

Without unlimited budgets, which could be deployed to hire an additional cadre of experienced attorney-professors, what is a law school administration to do? And, of course, adjunct professors serve an important role at many law schools, yet by definition they have other jobs that take up the majority of their time and effort. Law schools are trying to meet the need by devoting entire positions to experiential learning.⁸¹ Yet if the people occupying these positions are overseeing clinical programs, externships, and the like, they may have little time to devote to providing more experiences throughout the three law school years.

Professors who are more at ease in the profession are more inclined to create the professional experiences that impact students most and to provide real-life experiences that students seek in forming their professional identities. Furthermore, professors who reconnect with practice will learn more about changes that practice has undergone since professors were in law school or practice, changes that some believe law professors are insufficiently noticing or caring about.⁸²

Law professors are far from the only individuals or entities that can influence professional identity formation. Indeed, to view professional identity formation as professor-centric is a mistake or even antithetical to some of the goals, such as self-direction and ownership of progress toward excellence in professional skills.⁸³ Instead, some commentators

⁸⁰ Organ, *supra* note 71, at 479.

⁸¹ Martin H. Pritikin, *The Experiential Sabbatical*, 64 J. LEGAL EDUC. 33, 33 (2014) (citing Don J. DeBenedictis, *Practical Skills in Vogue in Law School Classrooms*, DAILY J. (Sept. 18, 2013), <https://www.dailyjournal.com/article/247052-practical-skills-in-vogue-in-law-school-classrooms> [<https://perma.cc/9TRK-L5RS>] (“In 2011, there were fewer than a dozen law school deans or directors with ‘experiential’ in their titles. As of [2013], there are 47. . . . The number of law schools with an associate dean for experiential learning, for example, has skyrocketed in the last few years.”)).

⁸² Johnson, *supra* note 75, at 1236.

⁸³ “Teaching as it is customarily envisioned—the transmission of expert knowledge by a professor who imparts doctrinal wisdom and hones student skills in analysis and synthesis—figures enormously. But the education of the American lawyer involves more. Other kinds of experiences are formative for the developing lawyer and . . . in a . . . meaningful sense, an integral part of the legal education.” NEIL W. HAMILTON & LOUIS D.

urge that professors should see themselves as curators and coaches, carefully selecting appropriate experiences for students and then guiding and providing opportunities to reflect.⁸⁴ But given the role of law professors within the law school, reconnecting law professors to practice can only help with students' professional identity formation.

This Article proposes that, in addition to providing the existing experiential offerings such as clinics and internships, law school administrators supplement the experience and connections of their existing faculty with refreshers and new connections in the profession. Would law professors want to reconnect? Law professors, in general, are dedicated to students, interested in the law, and capable of learning new skills, particularly if given the right incentives. The different proposals below are designed to meet law faculty where they are in terms of inclination and background. This Article also proposes aligning faculty interests with these new or refreshed experiences and connections, so students can form a professional identity under the guidance of professors with current experiences and connections in the law.

III

LAW PROFESSOR RECONNECTIONS WITH PRACTICE

Law professors who are up to date with the issues, concerns, and people of today's law practice will be better prepared to help law students develop their own professional identity. They can provide opportunities outside the classroom, can supplement their classroom lessons with additional context, and can better counsel students as to career options. How can these connections take place? Here are some suggestions, listed from most time-intensive and immersive to least.

A. An Experiential Sabbatical in Practice

One way for professors to reconnect with practice and create new connections for students is to take a sabbatical semester and spend it in the trenches of practice. While many law professors have worked in law firms, public defenders' offices, or district attorney's offices, and

BILIONIS, LAW STUDENT PROFESSIONAL DEVELOPMENT AND FORMATION: BRIDGING LAW SCHOOL, STUDENT, AND EMPLOYER GOALS 38 (2022).

⁸⁴ *Id.* at 41. "By curating, we mean staging the experiences and environments that will promote professional identity development, connecting them conceptually to one another in an intelligently sequenced fashion, and guiding students through them with a framework that helps the students understand their own development through the process." *Id.*

either interned or clerked with a court, those experiences can be updated and sharpened through an experiential sabbatical. This kind of sabbatical is uncommon—most law professors spend a sabbatical in more traditional scholarly pursuits.⁸⁵ But those who have taken an experiential sabbatical report that the experience has transformed their teaching.⁸⁶ Those who have taken one report that the results are tremendously fruitful for both the professor and the law school.⁸⁷ People who have taken such sabbaticals, and other commentators, urge that a spell in practice is one way to address the call for students to be better prepared for practice⁸⁸ and to aid students in the formation of a professional identity.

1. Settings for an Experiential Sabbatical

Law professors have taken experiential sabbaticals within the following settings:

District Attorney's Office. Dean Martin H. Pritikin took an experiential sabbatical in the Orange County District Attorney's office. His principal motivation was to enhance his teaching of criminal law and mock trial, as his previous experience in criminal law was limited—but he also hoped to broaden his professional network and serve as a better advisor to students.⁸⁹ He took on cases,

⁸⁵ Rabé & Rosenbaum, *supra* note 78, at 297 (noting that most professors engage in traditional legal scholarship pursuits during sabbaticals); Pritikin, *supra* note 81, at 38 (noting that, based on his own experience “such experiences can be a powerful tool for faculty development in terms of teaching, scholarship and service in ways that benefit both the faculty member and the institution”).

⁸⁶ See, e.g., Pritikin, *supra* note 81, at 39 (describing the author's sabbatical in the district attorney's office); Rabé & Rosenbaum, *supra* note 78, at 299 (describing a sabbatical spent with a legal aid organization); Bobby Marzine Harges, *Law Professor's Sabbatical in District Attorney's Office*, 17 *TOURO L. REV.* 383, 384 (2001); Michael A. Mogill, *Professing Pro Bono: To Walk the Talk*, 15 *NOTRE DAME J.L. ETHICS & PUB. POL'Y* 5, 32 (2001); Stacy Caplow, *A Year in Practice: The Journal of a Reflective Clinician*, 3 *CLINICAL L. REV.* 1, 2 (1996); Gary S. Gildin, *Testing Trial Advocacy: A Law Professor's Brief Life as a Public Defender*, 44 *J. LEGAL EDUC.* 199, 199 (1994).

⁸⁷ Pritikin, *supra* note 81, at 38.

⁸⁸ Amy B. Cohen, *The Dangers of the Ivory Tower: The Obligation of Law Professors To Engage in the Practice of Law*, 50 *LOY. L. REV.* 623, 643 (2004) (proposing that professors spend time in practice to improve their teaching and appreciation of the profession); J. Timothy Philipps, *Building a Better Law School*, 51 *WASH. & LEE L. REV.* 1153, 1160 (1994) (urging professors to spend time in practice to improve their teaching); Edward D. Re, *Law Office Sabbaticals for Law Professors*, 45 *J. LEGAL EDUC.* 95, 97 (1995) (stating that law professors without practice experience should gain work experience in law offices); Gildin, *supra* note 86; Mogill, *supra* note 86 (describing one law professor's sabbaticals in a legal aid office).

⁸⁹ “As I approached eligibility for my first sabbatical, I . . . reasoned that the [prosecutor's office] experience would enrich my teaching of criminal law, evidence and

worked them from beginning to end, and immersed himself fully in criminal practice and all its complexities. His sabbatical experience exceeded his expectations, and he “found [his] sabbatical . . . valuable to [his] professional development in all areas.”⁹⁰

U.S. Attorney’s Office. An experienced clinical professor spent a year litigating civil cases as an Assistant United States Attorney, an experience she found extremely helpful to her teaching.⁹¹ She had practiced in criminal law and sought to gain experience in civil law—by the end of the year, she had gained a solid understanding of the practice.⁹² She found, though, that her greatest lesson from this experience was to appreciate anew the challenges that a novice faces, giving her greater empathy for her own students and their efforts to perform well under pressure while facing an entirely new environment.⁹³ She concluded that “[a] year in practice offers unique opportunities to a clinical teacher, particularly one who has been teaching full-time for many years.”⁹⁴

Judicial Chambers. Legal writing professors, in particular, can benefit from an experiential sabbatical, as they are tasked with creating realistic legal writing problems, yet they generally do not regularly appear in court or write for judges.⁹⁵ The author of this Article,⁹⁶ who had been teaching legal writing for over fifteen years, took a sabbatical semester in three different courts, spending a month in each: the 152nd Civil District Court in Harris County, Texas; the Federal District Court for the Southern District of Texas; and the Fifth Circuit Court of Appeals. The goal was to refresh her knowledge of persuasive writing for judges and to ensure that her course content was current and appropriate. Through reading court filings, discussing them with judges, and watching the results, the author gained insights on the value of concise, candid, direct writing. She learned much more, including lessons on ethics and civility. In addition, practical guidance for students (such as the importance of reading the local rules) and other lessons emerged from the

trial advocacy by enhancing my own practical skills and exposing me to real-life ethical dilemmas and strategic challenges. I also expected to discover new material for scholarly articles. Finally, I believed that my professional network would broaden, which would give me credibility as a reference for students seeking jobs and access to potential speakers and adjuncts with practical skills and ethical insights.” Pritikin, *supra* note 81, at 34.

⁹⁰ *Id.*

⁹¹ Caplow, *supra* note 86, at 1–2 (“A return to practice in order to learn how to be a better practitioner should enable any clinician to teach practice better, and with more sophistication.”).

⁹² *Id.*

⁹³ *Id.* at 52.

⁹⁴ *Id.* at 2.

⁹⁵ “Unlike their clinical colleagues, the legal writing professors—who often do create complex appellate problems for their moot court and appellate advocacy classes—rarely, if ever, appear in court, counsel clients, or prepare transactional documents for use by live clients.” Rabé & Rosenbaum, *supra* note 78, at 300–01.

⁹⁶ “The author” hereinafter refers to the author of this Article.

experience. She is now able to take students on court observation trips easily, and she is familiar with the local courthouses and their procedures. Her connections are already creating experiential opportunities for students.

Private Practice. One professor who teaches copyright law took a semester-long sabbatical to work in a law firm that practices copyright law.⁹⁷ She worried that although she was engaged in teaching law and kept in touch with colleagues, it had been decades since she had practiced law.⁹⁸ In advance of her practice sabbatical, she surveyed practitioners to find out what, if anything, they would change about their legal education—most called for more preparation for practice through more clinics, internships, or changes to teaching practices.⁹⁹

Through her stint in practice, the copyright professor learned about the practicalities of copyright law, researched practical issues that she had not come across in teaching, and gained new insights for her class's hypotheticals and problems.¹⁰⁰ She noted that practicing lawyers do not have the luxury of time or freedom from worrying about losing a client.¹⁰¹ She concluded that "[e]very law professor should at some time during his or her teaching career be forced to confront that reality."¹⁰²

Public Defender's Office. After teaching trial advocacy for fifteen years, a law professor spent a sabbatical in the public defender's office.¹⁰³ The law professor tried five cases and argued at fifty hearings.¹⁰⁴ Over the course of the sabbatical, the professor learned aspects to the practice beyond the advocacy he had taught.¹⁰⁵ He learned that sentencing advocacy, for example, was crucial for those clients who had no defense to the underlying crime.¹⁰⁶ He discovered that jurors may not view the burden of proof for a criminal defendant the same way that lawyers do.¹⁰⁷ He concluded that his time in the

⁹⁷ Cohen, *supra* note 88, at 624. "The stress that lawyers feel when the answer to a legal question is unclear or against the client's interest is something that I needed to re-experience so that I can help students prepare for those pressures and appreciate how the ambiguities in the law translate into the stresses of life in the world of practice." *Id.* at 641.

⁹⁸ *Id.* at 623–24.

⁹⁹ *Id.* at 624.

¹⁰⁰ *Id.* at 636–37.

¹⁰¹ *Id.* at 644.

¹⁰² *Id.*

¹⁰³ Gildin, *supra* note 86, at 204–05.

¹⁰⁴ *Id.* at 199.

¹⁰⁵ *Id.*

¹⁰⁶ *Id.* at 201 (noting that "the skill entailed in this sort of advocacy has nothing to do with law but has everything to do with affording proper representation of the client").

¹⁰⁷ *Id.*

public defender's office "had a profound impact on [his] teaching of trial advocacy."¹⁰⁸

2. *Benefits for Students' Professional Identity Formation*

Professors who have taken experiential sabbaticals expected to learn technical points about current law practice, but they report having learned much more that can supplement their teaching and aid in students' professional identity formation.

Immersion in Current Issues in the Practice Area. Part of an experiential sabbatical consists of joining a department, office, or chambers and talking casually to coworkers. During these times, the professor can learn from colleagues when current practitioners or judges share their experiences.¹⁰⁹ A law professor in chambers can, for example, observe hearings in his or own judge's chambers but can also talk to judges and observe hearings and trials in other chambers.¹¹⁰ By teaching students about these and other realistic encounters in practice, law professors can help students understand the attorney-client relationships, as required for a fully formed professional identity.

The Ability to Provide More Realistic Problems, Simulations, and Context in Class. Even though many of the professors who took experiential sabbaticals practiced before law school, their experiential sabbaticals helped bring them up to date with today's legal practice and enhanced their teaching. Professors who have taken an experiential sabbatical report that they are better able to provide up-to-date examples, problems, and simulations.¹¹¹ This not only provides up-to-date information to students but allows students to visualize themselves in more realistic situations in practice.

¹⁰⁸ *Id.* at 205.

¹⁰⁹ Pritikin, *supra* note 15, at 341 ("[B]ecause the deputy district attorneys actually enjoyed discussing their cases, I was exposed, during lunches and in hallway chats, to many more legal issues than those raised at the weekly roundtables.").

¹¹⁰ For the author, these experiences outside her assigned chambers were highly instructive. During one hearing in an adjacent state court, for example, the author observed a highly contentious case in which the attorneys had a history of exchanging barbs with one another. That case's judge explained to the professor how we must, in our teaching, prioritize the distinction between zealous representation and counterproductive quarreling. Another example was when the author sat in on voir dire during a civil trial, and the federal district judge addressed the venire panel, sympathizing with their scheduling concerns surrounding jury service. The judge referenced a website that lists the service members who have most recently given their lives in military service, and the judge read the names and ages of the service members who died most recently, noting that service is required to maintain our democracy and that jury service is what their country asks of them. This was a sobering and memorable moment.

¹¹¹ Rabé & Rosenbaum, *supra* note 78, at 305 ("The knowledge, experience, and insight I gained [during an experiential sabbatical] has translated into better—and certainly more confident—teaching.").

Better Connections for Student Employment. During a sabbatical semester with three different courts, the author sat in on deliberations over which judicial clerk and intern candidates to interview, and then, which candidates to hire. As a result of this window into the hiring process, the author is better positioned to advise students and the career services office on exactly what judges are looking for, how students should prepare for interviews, and the timing of applications.¹¹² These opportunities can be very impactful for students because they can help them develop their professional identity.

Improved Advocacy for Professor Practice Experience. Professors who have taken experiential sabbaticals tend to advocate for others to take on such experiences and for law schools to value practice experience in new hires.¹¹³

Unexpected Benefits and Lessons. Law professors who took experiential sabbaticals reported learning more—and learning in different areas—than they even expected. One legal writing professor, who had always included client interviews in her course, learned that interviewing clients took on greater complexity in the context she visited.¹¹⁴

A law professor in the public defender's office was surprised to find out that many of his clients were in fact innocent, and some of the innocent were convicted and jailed.¹¹⁵ Although law professors can pass important knowledge and theories on to students strictly by discussing casebooks, there is no substitute for personally experiencing the dilemmas of practice, such as the conflicting concerns that go along with sentencing a criminal defendant.¹¹⁶ If students can hear these experiences in the classroom from their professors, students can start to imagine how they would handle such situations themselves.

Modeling Self-Directed, Lifetime Learning. Part of professional identity formation is the understanding that a lawyer's education does not cease with law school graduation but continues throughout a

¹¹² The author discussed clerk hiring with judges at the district and court of appeals levels and also had the opportunity to discuss clerking with the clerks themselves.

¹¹³ Pritikin, *supra* note 15, at 344 (stating that “law schools should give more weight to practice experience in hiring tenure-track faculty, and should do more to encourage existing faculty to return to practice”).

¹¹⁴ Rabé & Rosenbaum, *supra* note 78, at 310–11 (“In over twenty years of teaching legal writing and lawyering skills in first-year classes that directly address interviewing skills, I had never once discussed telephone interviews. I also had not discussed interviewing clients who are deaf, clients with brain injuries, or clients who are blind. I had not discussed using a second-language interpreter in client interviews. Yet, there I was at PAI doing all those things.”).

¹¹⁵ Gildin, *supra* note 86, at 204 (“Rarely have I felt so at loss for words as in trying to explain how it can be possible for an innocent person to confront a jail term.”).

¹¹⁶ Pritikin, *supra* note 15, at 339 (“There is simply no way I could have had this window into these conflicting concerns had I not personally engaged in this role.”).

professional career. A law professor who spends a sabbatical in practice is modeling to students this kind of self-directed quest to improve one's own knowledge.

Humility and Empathy with Students. Proposals to improve law students' wellness suggest that kindness and empathy with students could contribute to increased student happiness. To understand law students' feeling of being at sea, particularly among first-year law students, professors can benefit from navigating an entirely unfamiliar professional setting. The author's three-stage internship, for example, consisted of one month in three different courts. This, then, meant tackling three distinct first days at a new job, with all the confusion, unfamiliarity, and fish-out-of-water moments that this entails. Far removed from the familiar law school environment, the author got lost in chambers and at one point, after a discussion about a pending case, accidentally walked into a broom closet instead of the hallway. As a mature intern, one is treated as knowing everything but also nothing, and at any given time, either might be true.

While these professors' experience would enhance the classroom regardless of any ABA standard or guideline, the connections and experience will enhance law schools' ability to respond to the new guidelines regarding professional identity formation. Nevertheless, few law schools, according to one inquiry, permit or support such sabbaticals.¹¹⁷

An experiential sabbatical can create deep, multifaceted, and lasting connections between the professor and the practicing bar. It is the connection to practice that this Article most highly recommends. But other, more common experiences can also create connections, as set out below.

B. Engaging with the Practicing Legal Community

While an experiential sabbatical may be more than some podium professors wish to take on, almost any professor can connect further with the profession by participating in local bar presentations and activities. Thirty years ago, the MacCrate Report decried the separation between law professors and the practicing bar, urging that professors become more involved in bar activities.¹¹⁸

Professors who regularly attend local bar meetings and CLEs can learn about current issues of interest to practitioners, hear about practitioners' expectations for new lawyers, and otherwise gain important knowledge that affects law students. At such events, law

¹¹⁷ *Id.* at 335.

¹¹⁸ MACCRATE REPORT, *supra* note 7, at 5–6.

professors can gain not only substantive updates on the law but also updates on side issues, such as technology and important people in that area of practice. And, just as practitioners in the classroom can benefit students tremendously,¹¹⁹ so can professors who have forged their own connections with practice. This can provide a mutual benefit: just as law professors are interested in finding guest speakers and the like, the legal community often seeks speakers, and law professors can offer their own writing or speaking services to foster their practitioner connections.

C. Partnerships with Practitioners

Law professors who seek a still more modest connection to practice can help students' professional identity formation by partnering with local practicing attorneys. Professors can find these connections through on-campus events with alumni and guests, through their own social networks, or through the campus alumni office. Once professors have identified some contacts, they can invite practitioners to campus, to lunch, or to other events. These connections can create the synergies that the first reports critical of legal education's ivory tower envisioned.¹²⁰

IV

APPLYING THE LESSONS IN THE CLASSROOM

Law professors who are closely connected to the practice of law can infuse their classrooms with the lessons they learned, the connections they made, and the realistic professional contexts.

Within the six recommendations below, it should first be noted that the ABA's new guideline on professional identity formation insists that students have such opportunities during each year of law school—and the 1L year is the year most devoid of experiential learning. Even apart from the ABA's new requirement, commentators call for experiential

¹¹⁹ Philip L. Merkel, *Scholar or Practitioner? Rethinking Qualifications for Entry-Level Tenure-Track Professors at Fourth-Tier Law Schools*, 44 *CAP. U. L. REV.* 507, 542 (2016). "Professors can call upon prominent lawyers and judges to serve as guest lecturers and participate in school functions such as moot court and symposia. They can identify potential adjuncts to teach electives on specialized topics, help find placements for students seeking externships and clerkships, and introduce students to the importance of professional networking by bringing them to lawyer group meetings and introducing them to members of the bar and bench." *Id.*

¹²⁰ MACCRATE REPORT, *supra* note 7, at 7–8.

learning to take place during the first year, so law students can benefit from the context and interest that results from real-life learning.¹²¹

Law faculty with professional connections are well-positioned to help their students immerse themselves immediately into the legal profession and start to develop a professional identity. In addition, real-life experiences will help relieve some of the first year's stress and boredom and show students the array of possibilities for their lives after law school. Through authentic experiences in the law, 1Ls can gain passion for the profession.¹²²

When law professors are more connected to practice, they will be more capable of exposing even first-year law students to experiences such as those described below, so professional identity formation can begin more meaningfully in the 1L year.

A. Courtroom Visits and Experiences

As explained above, authentic experiences—interacting with real lawyers, judges, and clients—most deeply affect students in the development of their professional identity. Professors with closer connections to practice are better able to deliver authentic experiences to students and can provide these even in the first year of law school.

Courtroom visits and interactions with real judges are a way for professors to allow even first-year students to learn about professional norms, explore practice areas, and develop multiple facets of their professional identity. First-year law school classes generally consist of large, lecture-format experiences, far removed from present-day law practice. In a typical day of class, first-year students read cases and respond to questions about them; many of the cases are from long ago, with little context in which to place them. Unlike their first-year counterparts in the medical profession, whose education takes place within a patient care setting nearly from the beginning,¹²³ law students sit in classrooms away from law practice.

¹²¹ Deborah Maranville, *Infusing Passion and Context into the Traditional Law Curriculum Through Experiential Learning*, 51 J. LEGAL EDUC. 51, 61 (2001) (“[E]xperiential learning should be integrated into the curriculum in the first year, not deferred until the second and third years.”).

¹²² *Id.* at 64. (“Think how differently students might experience the first year of law school, how much passion and context might be infused into their education, if we integrated even limited experiential education into each of the first-year courses.”).

¹²³ Sylvia R. Cruess & Richard L. Cruess, *From Teaching Professionalism to Supporting Professional Identity Formation: Lessons from Medicine*, 68 MERCER L. REV. 665, 682 (2017) (noting that “[a]uthentic clinical experiences with real patients begin in the first week of medical school”).

Professors can, however, supplement this sterile classroom experience by encouraging students to spend time in their community's courtrooms, either alone or as a group with the professor. Courtroom visits during the first year can help law students connect with the profession, meet judges and lawyers, and start to see how they may fit into the profession after law school. Students can also see how rules work in practice, see examples of advocacy, and understand how hearings work.¹²⁴ And, instead of sitting and listening passively to a professor, a law student who visits a courtroom must learn actively, whether the student is navigating the security process to enter the building, finding out how to locate a hearing, or speaking with a lawyer or judge who might engage the student in conversation.¹²⁵ All this can help form a law student's professional identity.

A courtroom visit could take place during any of a student's three years in law school. But because first-year law students are generally not yet prepared to participate in law school clinics and direct representation, the first year of law school is an ideal time for students to visit courtrooms. First-year law students often have little idea of what practice area might interest them, and they may never have set foot inside a court building. A courtroom visit can help bring the profession to life.

One professor who regularly assigns her family law students to visit courtrooms has written about the many positive effects—one is the excitement that students feel after their visits:

After visiting court, students enter the subsequent class session bubbling over with excitement to talk about their courtroom visit and compare experiences with classmates. They were excited to have done something other than the typical Socratic Method of a doctrinal class and to have seen the theories and doctrines of family law in practice.¹²⁶

¹²⁴ Tiffany Gee Ching Lo, *Why You Should Attend a Court Hearing*, LAW SCH. TOOLBOX (May 4, 2022), <https://www.lawschooltoolbox.com/why-you-should-attend-a-court-hearing/> [https://perma.cc/G9R8-LRFN] (explaining the multiple lessons she learned from attending a virtual court hearing after her professor assigned students to do so).

¹²⁵ Sonia M. Gipson Rankin, *Creating Lightbulb Moments: Developing Higher-Order Thinking in Family Law Classrooms Through Court Observations*, 51 J.L. & EDUC. 13, 20 (2022). Court visits promote active learning. Active learning refers to deeper student involvement in the learning process than what normally occurs when students passively listen to a lecture. The approach responds to students' need to use their own existing skills to encode new information to remember it easily.

¹²⁶ *Id.* at 16.

A courtroom visit need not be limited to a simple field-trip assignment but can be enhanced to fit the particular discipline that the professor teaches. A legal writing professor could assign publicly filed motions or briefs for students to read in advance of the visit, so students could see the motions being argued and discuss afterward whether the argument met the students' expectations.

If contacted appropriately in advance, judges may be available to meet with students and discuss advocacy techniques for new attorneys. And, when students set foot in the courthouse, they may meet attorneys or judges who may be willing to assist the students in their journey to becoming lawyers. In short, spending time in court can help students form their professional identity and start to join the profession.

Of course, any law professor could create a court visit assignment. But any assignment is apt to generate questions, and a professor who feels more competent answering questions about court procedures, navigating the courthouse, using the electronic court databases, and appearing in court is more likely to include such an assignment as part of the coursework. In addition, a professor who is connected to law practice is more likely to know judges whom the students could visit, perhaps to receive additional information about the hearings.

With regard to professional identity formation, a courtroom visit allows students to develop multiple aspects of their professional identity. First, they may well see the attorney-client relationship in action and in doing so, start to feel that responsibility. For example, at a criminal sentencing hearing, law students would see the burden that an attorney carries as he or she argues for a lower sentence for the client, or when he or she argues on behalf of the state that a sentence should be higher due to concerns of community safety and chances of recidivism.

Second, students on a courtroom visit would grasp the need for continuing, self-directed learning, as they would see the different skills necessary to appear successfully in court, as well as the additional skill sets of judges.

Third, students observing court can enhance their ability to exercise good judgment. Good judgment is surely one of the most difficult lawyering skills to learn. It can be understood as the ability to see multiple sides of an issue, the potential danger points, and the effect of possible courses of action on future events.¹²⁷ Good judgment does not

¹²⁷ Mark Neal Aaronson, *We Ask You to Consider: Learning About Practical Judgment in Lawyering*, 4 CLINICAL L. REV. 247, 257 (1998) ("In such fluid situations, the effective

occur in a vacuum—it is developed through observation, consideration, discussion, and debriefing.

Fourth, students would be taking on some of the outward signs of being an attorney—dressing in courtroom-appropriate attire, interacting with court staff, and navigating the court building. This would help them see themselves in the profession and would allow them to reflect upon how they would handle the situations they see unfolding during their visits.¹²⁸ A professional identity is an internalized way of behaving and viewing one’s role in the profession—this takes time, so starting the process with authentic experiences in the first year can help.¹²⁹

Finally, as to wellness, students who visit courtrooms and talk to lawyers and judges may find that the perceived scarcity of jobs in law school (often understood as going only to those students with top grades) is not the reality. Students may talk to a lawyer or judge who did not attend a top law school or earn top grades, and that person may be thriving in the profession. This can help assure students—more than any words said in the classroom—that the legal profession has room for a broader group of students than they might believe.

B. Classroom Simulations

Classroom simulations are a low-barrier means of infusing energy and engagement into the law school classroom; these experiences can also help students form a professional identity. Effective classroom simulations, however, require professors willing to experiment and depart from more traditional approaches. While interaction with actual clients is preferable and creates more vivid experiences,¹³⁰ first-year law students may not yet be prepared to interact with clients, and the rigorous first-year schedule may not allow time for client-interaction

spotting of relevant issues and the appropriate weighing of various alternatives and potential consequences require substantial contextual awareness and highly inclusive deliberation. The roots to good judgment in these circumstances lie at the intersection of theory and practice.”).

¹²⁸ Rankin, *supra* note 125, at 59 (“Some students told me anecdotally that they felt more comfortable seeing themselves as practitioners or were interested now in becoming judges. Helping 1Ls develop their professional identity and feel a sense of belonging in the legal community was a bonus I had not expected.”).

¹²⁹ Madison & Gantt, *supra* note 34, at 345 (“The only difference between a lawyer told to be professional who acts in this way and one who acts this way because of her professional identity is that the lawyer *herself* believes that this is the way she should act.”).

¹³⁰ Maranville, *supra* note 121, at 68 (noting that “real cases will provide more vivid and engaging context than will simulated exercises”).

projects. Simulations can serve as a valuable teaching technique, especially for the first year of law school.

To craft a simulation, professors need some familiarity with the interaction being simulated or the willingness to obtain this familiarity.¹³¹ Students are likely to ask questions about the simulation, and professors who are ill prepared to provide context and answer questions risk a less effective simulation.¹³² A professor who has recently observed court or who has connections in practice is more likely to be able to design an effective simulation, partner with a practitioner, or engage court staff or facilities in the exercise.

The legal writing classroom provides more opportunities than the typical doctrinal classroom for first-year law students to engage in simulations. While legal writing professors have long taught practical professional lessons and woven discussions of the profession into the classroom, they too are being asked to teach professional identity formation more intentionally.¹³³

A legal writing professor who is connected with practice will be well equipped to bring the essential skill of legal writing to life through discussion of real-life briefs, motions, and writing dilemmas. A legal writing professor well-versed in current practice could arrange for mock motion hearings or invite a judge to critique the arguments. The professor could bring experiential prework into the assignment by having students look up similar, real-life motions then pending in the court. When a professor has contacts in practice and awareness of current court rules, even a first-year law student could have a motion hearing experience that comes close to one in actual practice. This kind of experience makes students feel more like a junior member of the legal profession and less like an outsider.

¹³¹ *Id.* at 70 (noting that “[m]any traditional law teachers are both unfamiliar and uncomfortable with simulation methodologies”).

¹³² Martin J. Katz, *Facilitating Better Law Teaching—Now*, 62 EMORY L.J. 823, 833 (2013) (“Most notably, not every professor has the type of training that prepares them to do good simulations . . . [t]he deficiency can come from a lack of practice experience.”).

¹³³ David I.C. Thomson, “*Teaching*” *Formation of Professional Identity*, 27 REGENT U. L. REV. 303, 322 (2015) (“Despite being focused on developing these fundamental professional skills, many lawyering faculty may have been caught up short by the *Carnegie Report*’s focus on the third apprenticeship. While lawyering faculty members regularly address issues of professionalism in their classes, they have not traditionally offered *intentional* opportunities for their students to form their professional identities.”); Katz, *supra* note 132, at 830 (noting that many legal writing courses include simulations); Dauphinais, *supra* note 64, at 103 (noting that legal writing professors have long taught skills in the context of practice simulations).

C. Classroom Partnerships with Judges and Practitioners

A law professor who is active in the profession will have the contacts necessary to connect practitioners and judges with the classroom. The most straightforward way to include practitioners and judges in the classroom is to invite them as guest speakers. Toward the end of the semester, when enthusiasm may be flagging, the right guest speaker can inspire students and expose them to a career idea or workplace they had not considered. Practitioners and judges are also ideal people to judge first-year oral arguments or sit on panels regarding career options or networking.

Professors wishing to bring practitioners and judges further into the classroom can design and propose a class that would further expose students to current law practice.¹³⁴ When law professors have the connections and personal relationships to bring enthusiastic practitioners into the classroom, students can start to consider how they too will fit within the profession. This is a critical step in the formation of a professional identity.

D. Advice About Ethics

One complaint about law school is that students find the profession presented as value neutral, with students learning skills devoid of values and ethics in which to view difficult choices. But when professors have recent practice experience or connections to the profession, they are more likely to have faced or at least observed ethical dilemmas in practice and, in turn, to be able to provide students context about the ethics and values considerations at play in a range of legal matters.¹³⁵

An experiential sabbatical can be a fruitful source of examples of ethical issues for student discussion, assuming confidentiality

¹³⁴ At South Texas College of Law Houston, legal writing professors, including the author, created a new course entitled “Client-Friendly Legal Writing for Practice.” The course’s goal was to focus students on writing for particular audiences in practice, such as an individual client, a board of directors, an in-house counsel client, a criminal client, and others. Students learned how a board of directors, for example, would need information at a different level of detail from an in-house attorney. Two practitioners—one from a law firm and one in-house counsel and executive—team-taught to bring a broad perspective to the course. This course and its professors were possible only due to the practice connections of the two professors who designed the course.

¹³⁵ Pritikin, *supra* note 15, at 338 (“The Carnegie Report and Best Practices both emphasize the importance of integrating ethics and professionalism training with substantive knowledge and skills. Witnessing first-hand and experiencing this ethical dimension from the prosecutor’s perspective was particularly valuable.”) (footnote omitted).

requirements are maintained. During his sabbatical in the district attorney's office, for example, Dean Pritikin, of Purdue Global Law School, faced a number of ethical dilemmas. These ranged from the final judgments about which evidence was relevant and should be turned over to criminal defendants to the competing concerns regarding which sentence to urge at sentencing.¹³⁶ He recounted that one of the most difficult phone calls he had to make was to a crime victim who testified at trial, only to see the alleged perpetrator acquitted.¹³⁷ Dean Pritikin urged that although one could read about these dilemmas in books, they are only deeply felt when shouldered in practice.¹³⁸

The author, too, grappled with and observed numerous ethical issues while interning with three different courts during a sabbatical semester. On a near-daily basis, the author observed attorneys struggling with the line between zealous advocacy and unethical practice. As just one example, during a hearing, a lawyer who did not want to represent a client for a second deposition misrepresented the topics covered in the initial deposition. The lawyer assured the court that all topics had been allowed and that the lawyer had done nothing to limit the areas of inquiry. In fact, upon reading the 200-page deposition, the court saw that the attorney had limited the topics at least twenty times. The author discussed the ramifications of that kind of misrepresentation for the case and the lawyer, including the lawyer's reputation, with the judge. While a professor could certainly tell students that sentencing choices are difficult or not to misrepresent matters to the court, a professor who has watched a similar situation unfold can provide additional details, emphasis, and context.

E. Real-Life Context for Legal Writing Assignments

A legal writing professor with experience in and connections to practice can provide context for students' legal writing projects as well as contacts who may be willing to serve as guest judges for students' first-year oral arguments.

During a monthlong internship with a state civil court judge, for example, the author learned that many state trial court judges in Texas have no assistance from briefing attorneys or law clerks. A judge might have forty or fifty motions to rule on per week, plus trials, which can take up a large part of the business day. When students understand the

¹³⁶ *Id.*

¹³⁷ *Id.*

¹³⁸ *Id.*

details of this context, students can learn to calibrate their writing to the court they are writing for. For state trial courts, then, legal writers should be particularly straightforward and concise. An urgent, detailed message about succinctness accompanied by an explanation of the time constraints and demands placed on state trial court judges is more likely to hit home than a general directive to “be concise.”

Additional context can help students see the need for candor in legal writing. Judges in these overburdened courts—and indeed, all courts—value candor to the court, since judges simply do not have the time or resources to read in full every case cited in every motion and brief. So, a law professor familiar with practice in state trial courts can advise students that if judges check one or two sources and find one is overstated or used in a misleading manner, the judge can no longer credit that lawyer’s work. Worse still is the situation in which the judge does not notice the omission or overstatement until opposing counsel points it out—the lawyer who writes this way will likely not be trusted again. A judge who finds out that a lawyer is careless with the truth is likely to warn other judges. A professor with practice experience can bring these lessons to life for students.

F. Job Opportunities and Counseling for Students

A law professor with professional contacts can connect law students with internship and job opportunities.

For example, when the author interned with three different courts, the author discussed internships with state court judges, and both internships and clerkships with a federal district judge and with a Fifth Circuit Court of Appeals judge. The author participated in intern interviews and discussed with judges the strengths they value in a clerk application. The author reviewed writing samples and discussed what judges hope to see in a writing sample. This can be valuable information for students and can inform a law school’s clerk and intern programming and advice.

Regardless of the exact manner that professors choose to incorporate connections to practice in the classroom, they will be better positioned to display creativity and promote students’ curiosity and commitment to the profession.¹³⁹ Students will then develop their own connections to—and identity in—the legal profession.

¹³⁹ Brooks, *supra* note 28, at 431 (“Using one’s creativity, finding joy, and affirming and expressing gratitude have all been shown to improve well-being and help build resilience—the ability to bounce back from hardships.”).

V

HOW LAW SCHOOL ADMINISTRATORS CAN HELP

Law school administrators face multiple, at times competing, demands when it comes to producing practice-ready graduates. On the one hand, administrators must maintain their law school's accreditation and are thus bound to comply with the ABA's requirements that they promote students' professional identity formation. And because most students attend law school to practice law upon graduation, many law schools promote and advertise their ability to produce graduates who can be functional lawyers immediately after graduation.

On the other hand, law schools exist within a larger academic context that values faculty scholarship above all, so internal policies generally incentivize faculty to act accordingly. Even at lower ranked law schools, whose mission is to produce lawyers ready for practice, law professors advance professionally through scholarly pursuits, not through their connections to practice.¹⁴⁰ Professors thus spend their time outside the classroom writing scholarship and presenting at conferences. Law schools could hire additional faculty to connect to practice, but law school budgets are limited. While a few personnel can be hired or let go at the margin, administrators must generally work with the faculty in place. Besides, even if full-time faculty are hired straight from practice, their distance from practice, too, will steadily grow, without special effort.

So, law schools are left to teach professional identity formation with faculty removed from the profession, if they were ever connected to it at all. Some suggest full-time law professors may lack not only the practice experience to teach professional identity formation¹⁴¹ but may not even want to, or see it as important.¹⁴² After all, if legal education comprises three apprenticeships—the apprenticeship of knowledge and analytical skills, the apprenticeship of practical skills, and the apprenticeship of professional identity—and professors have indeed made the least progress with professional identity, does that mean professors do not consider professional identity formation a significant part of their responsibility to students?¹⁴³ Some commentators even suggest that one challenge facing law school administrators seeking to implement professional identity formation learning programs is that

¹⁴⁰ Merkel, *supra* note 119, at 534.

¹⁴¹ See *supra* notes 64–84 and accompanying text.

¹⁴² Organ, *supra* note 71, 463.

¹⁴³ *Id.*

full-time faculty are focused only on their own success and not on teaching students.¹⁴⁴

Of course, while most law professors care deeply about their students, law professors are subject to the same motivations as those in other professions, specifically money, prestige, and career advancement.¹⁴⁵ If those rewards are linked principally to the production of high-ranking scholarly articles, then professors can be expected to answer that call. But if promoting the formation of practice-ready graduates and the development of professional identity are institutional priorities, then the incentives to reconnect meaningfully with practice should be commensurate with those for writing scholarly articles.

Many of the incentives that could be used to encourage professor connections to practice are already in place at many institutions to incentivize scholarly production, however, some of the incentives are likely to be novel. These include both direct incentives and “nudges,” or slight pushes toward the desired behavior.¹⁴⁶ Implementation of these incentive programs would require motivation and resources. But if law school administrators can implement programs using the faculty already in place, then the most significant cost would be contained. A law school administration could promote professor connections to practice in the following ways:

Practice Connections on Par with Scholarship. A reconnection to practice program would be most effective if professors are rewarded for substantial efforts toward practice connections just as they are for scholarly work. So, for example, a professor who wished to spend the summer doing pro bono legal work could create a proposal to receive financial benefits for the activity, just as the professor would for receiving a stipend for scholarly writing.¹⁴⁷ Professors should also be evaluated on the basis of their connections to practice when they are assessed for merit raises or eligibility for endowed chairs.

¹⁴⁴ *Id.*

¹⁴⁵ Rabé & Rosenbaum, *supra* note 78, at 297–98 (noting that many professors pursue scholarship to garner respect from colleagues or to progress on the tenure track).

¹⁴⁶ “A nudge . . . is any aspect of choice architecture that alters people’s behavior in a predictable way without forbidding any options or significantly changing their economic incentives.” Ezra Ross, *Reframing Faculty Pro Bono*, 70 J. LEGAL EDUC. 3, 11 (2020) (quoting RICHARD H. THALER & CASS R. SUNSTEIN, *NUDGE: IMPROVING DECISIONS ABOUT HEALTH, WEALTH, AND HAPPINESS* 11 (Penguin Books 2009)).

¹⁴⁷ Pritikin, *supra* note 81, at 63. (“Just as faculty members usually must apply for summer research stipends and identify the writing projects they intend to complete, faculty seeking a summer *pro bono* stipend would have to explain their intended work plans and how they expected it to benefit their research, teaching and service.”).

Policies that Promote Temporary Returns to Practice. Administrators can create policies that promote practice experience and returns to practice.¹⁴⁸ If, for example, a sabbatical in practice is a viable option for any faculty member, then faculty manuals and policies should reflect that option, and that option should be made known to faculty members approaching a sabbatical. If possible, the law school administration could maintain a list of agencies or law offices willing to host a law professor as an intern or guest attorney during a sabbatical period. This type of procedure would decrease the administrative friction so the experiential sabbatical need not be reinvented every time.

Encouraging the Innovators. Researchers from the Holloran Center for Ethical Leadership in the Professions describe different levels of faculty engagement with, and interest in, professional identity formation education, ranging from the innovators to the resistant.¹⁴⁹ The innovators are those likely to take on new projects, which may inspire other faculty members. The innovators likely already know the value of connections with practice, needing no encouragement to immerse themselves in new opportunities and, in turn, to pass these lessons and opportunities on to students. Administrators should support the innovators on their faculties. These innovators can then diffuse knowledge and enthusiasm to the rest of the faculty. If nonparticipating faculty members see the support for the innovators—and the intrinsic rewards the innovators enjoy—then the reluctant, too, may eventually wish to join the effort.

Publicity Regarding Available Opportunities. Professors may be interested in cultivating connections with law practice but may not be sure how to begin. Rather than rely on word of mouth or reinventing the wheel each time, law schools can point professors toward opportunities that have historically been successful. If a law school intends to allow professors to take an experiential sabbatical in practice, it should promote these opportunities to professors. As part of a law school's experiential learning program, law schools could maintain a list of different ways to connect with practice, ranging from experiential sabbatical opportunities to local bar association meetings that professors could attend.

Public Recognition. Law school administrators highlight new scholarship, media appearances, and other faculty accomplishments that are likely to enhance the law school's reputation in the legal

¹⁴⁸ Explicit policies should be developed delineating the circumstances under which time in practice will qualify for sabbatical leaves or stipends along with more traditional research, and financial and other incentives should be adjusted accordingly to reflect that practice is a priority. Pritikin, *supra* note 15.

¹⁴⁹ Organ, *supra* note 71, at 471–72 (“They have a vision about how to improve legal education to better prepare graduates for an evolving legal marketplace by focusing on the skills and competencies associated with professional identity formation and they have a passion for finding new and creative ways to foster professional identity formation in their classes and within their institutions.”).

community and with prospective students. To promote a culture of close connections with practice, professors' efforts toward this goal should also be publicized and honored. This type of incentive has the advantage of being relatively low-cost yet still impactful.

CONCLUSION

The vast majority of law students hope to enter the practice of law, not the legal academy. If law professors, in addition to researching and writing about theory, reconnect with practice, their students will benefit. Law students will benefit from the new connections, experiences, and enthusiasm that their professors' experiences will create. While law review articles and associated activities are likely to remain the coin of the realm, almost any law professor can make a little time to reconnect to the profession to which they all belong.

